

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES COURT
SOUTHERN DISTRICT OF TEXAS
FILED

JUL 26 2007

Michael N. Milby, Clerk of Court

BILLY LAMBERT, ROBERT
JEFFERSON BOWEN, FRANK R.
CUCINA, TIMOTHY J. BURKE,
ALBERTO CANAMAR, KENNETH
CHAPPELL, JR., DARRELL
COLBERT, TERRY L. COLBURN,
JR., MOISES DE LA CRUZ, LARRY
ELLIOTT, GERALD D. FONTAINE,
STANLEY D. FORD, JR., CAIN M.
GAMEZ, RAYMOND GARZA,
ESIQUIO GOMEZ, EDWARD
HAVLICE, LISA HAVLICE, RUBEN C.
HERNANDEZ, GEORGE R.
HOLDER, JENNIFER HOLDER,
DAVID HOWARD, WAYLAND
KELLEY, MICHAEL LOCHBAUM,
LEONARD T. MANOS, OMAR
MONTEMAYOR, MICHAEL D.
MORTMAN, TOD PAGET, WILLIAM
M. PRESTRIDGE, III, MICHAEL D.
REID, ANTHONY R. RIGGENS,
LEONARD ROBINSON, III,
VINCENT RODRIGUEZ, CHAD
ROGERS, RONALD SALSMAN,
GILBERT A. SANCHEZ, JASON A.
SHEPHERD, JACQUELYN
SIMMONS, WARREN
SMALLWOOD, VICTOR M.
STUBBLEFIELD, ANTHONY
SULAK, TRACY J. TAYLOR, BILLY G.
THOMPSON, DENNIS B. TYER, JR.,
STEPHEN WAKEFIELD, SHANE A.
WILBURN, AND KENTON WILLIAMS

Plaintiffs,

vs.

CITY OF HOUSTON,
Defendant.

CIVIL ACTION NO. _____
Jury Demanded

PLAINTIFFS, BILLY LAMBERT, ROBERT JEFFERSON BOWEN, FRANK R.
CUCINA, TIMOTHY J. BURKE, ALBERTO CANAMAR, KENNETH CHAPPELL, JR.,
DARRELL COLBERT, TERRY L. COLBURN, JR., MOISES DE LA CRUZ, LARRY
ELLIOTT, GERALD D. FONTAINE, STANLEY D. FORD, JR., CAIN M. GAMEZ,
RAYMOND GARZA, ESIQUIO GOMEZ, EDWARD HAVLICE, LISA HAVLICE,
RUBEN C. HERNANDEZ, GEORGE R. HOLDER, JENNIFER HOLDER, DAVID
HOWARD, WAYLAND KELLEY, MICHAEL LOCHBAUM, LEONARD T. MANOS,

OMAR MONTEMAYOR, MICHAEL D. MORTMAN, TOD PAGET, WILLIAM M. PRESTRIDGE, III, MICHAEL D. REID, ANTHONY R. RIGGENS, LEONARD ROBINSON III, VINCENT RODRIGUEZ, CHAD ROGERS, RONALD SALSMAN, GILBERT A. SANCHEZ, JASON A. SHEPHERD, JACQUELYN SIMMONS, WARREN SMALLWOOD, VICTOR M. STUBBLEFIELD, ANTHONY SULAK, TRACY J. TAYLOR, BILLY G. THOMPSON, DENNIS B. TYER, JR., STEPHEN WAKEFIELD, SHANE A. WILBURN, AND KENTON WILLIAMS', ORIGINAL COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Billy Lambert, Robert Jefferson Bowen, Frank R. Cucina, Timothy J. Burke, Alberto Canamar, Kenneth Chappell, Jr., Darrell Colbert, Terry L. Colburn, Jr., Moises de la Cruz, Larry Elliott, Gerald D. Fontaine, Stanley D. Ford, Jr., Cain M. Gamez, Raymond Garza, Esiquio Gomez, Edward Havlice, Lisa Havlice, Ruben C. Hernandez, George R. Holder, Jennifer Holder, David Howard, Wayland Kelley, Michael Lochbaum, Leonard T. Manos, Omar Montemayor, Michael D. Mortman, Tod Paget, William M. Prestridge, III, Michael D. Reid, Anthony R. Riggins, Leonard Robinson III, Vincent Rodriguez, Chad Rogers, Ronald Salsman, Gilbert A. Sanchez, Jason A. Shepherd, Jacquelyn Simmons, Warren Smallwood, Victor M. Stubblefield, Anthony Sulak, Tracy J. Taylor, Billy G. Thompson, Dennis B. Tyer, Jr., Stephen Wakefield, Shane A. Wilburn, and Kenton Williams, hereinafter called Plaintiffs, complaining of and about City of Houston, hereinafter called Defendant, and for cause of action shows unto the Court the following:

PARTIES AND SERVICE

1. Plaintiffs, Billy Lambert, Robert Jefferson Bowen, Frank R. Cucina, Timothy J. Burke, Alberto Canamar, Kenneth Chappell, Jr., Darrell Colbert, Terry L. Colburn, Jr., Moises de la Cruz, Larry Elliott, Gerald D. Fontaine, Stanley D. Ford, Jr., Cain M. Gamez, Raymond Garza, Esiquio Gomez, Edward Havlice, Lisa Havlice, Ruben C. Hernandez, George R. Holder, Jennifer Holder, David Howard, Wayland Kelley, Michael Lochbaum, Leonard T. Manos, Omar Montemayor, Michael D. Mortman, Tod Paget, William M. Prestridge, III, Michael D. Reid, Anthony R. Riggins, Leonard Robinson III, Vincent Rodriguez, Chad Rogers, Ronald Salsman, Gilbert A. Sanchez, Jason A. Shepherd, Jacquelyn Simmons, Warren Smallwood, Victor M.

Stubblefield, Anthony Sulak, Tracy J. Taylor, Billy G. Thompson, Dennis B. Tyer, Jr., Stephen Wakefield, Shane A. Wilburn, and Kenton Williams are domiciled in Harris County or the Southern District of Texas or the act or occurrence out of which this cause of action arises occurred in Harris County Texas.

48. Defendant City of Houston may be served with citation by serving Anna Russell, the Houston City Secretary at 900 Bagby, Houston, Texas 77002.

JURISDICTION

49. The action arises under 29 U.S.C. 201, et. seq., known as the Fair Labor Standards Act, as hereinafter more fully appears.

50. This Court has supplemental jurisdiction over state law claims discussed below under 28 U.S.C. Section 1367(a) because they arise out of the same case or controversy.

NATURE OF ACTION

51. This is an action under 29 U.S.C. 201 §7(a)(1) for the recovery of unpaid overtime compensation by Emergency Medical Services (hereinafter "EMS") employees of the City of Houston, and for recovery under quantum meruit and breach of contract causes of action.

CONDITIONS PRECEDENT

52. All conditions precedent to jurisdiction have occurred or been complied with: A letter with notice of Plaintiffs' claims was mailed to the City of Houston on October 2, 2006, and Plaintiffs have each indicated their consent to the filing of this lawsuit as evidenced by the attached signed consents filed with the court.

FACTS

53. Plaintiffs are each Emergency Medical Services (EMS) workers employed by the City of Houston Fire Department. Each of the Plaintiffs worked overtime for the City of Houston without receiving the minimum overtime compensation required by the Fair Labor Standards Act (hereinafter FLSA).

FAIR LABOR STANDARDS ACT VIOLATION BY CITY OF HOUSTON

54. Defendant the City of Houston violated section 7(a)(1) of the FLSA by failing to compensate Plaintiffs for overtime work performed at a rate not less than one and one-half times the regular rate at which they were employed.

QUANTUM MERUIT AGAINST CITY OF HOUSTON

55. Plaintiff provided valuable services or materials which Defendant City of Houston accepted, used and enjoyed. Defendant knew that Plaintiff expected to be compensated for these services or materials, but failed to compensate Plaintiff. Specifically, Plaintiffs worked overtime for the City of Houston as EMS workers without receiving proper compensation, according to the fair market value of the services rendered and the minimum compensation required by the FLSA. For such services or materials, Plaintiff herein sues.

BREACH OF CONTRACT BY CITY OF HOUSTON

56. Plaintiffs each had employment agreements, either express or implied, with the City of Houston, wherein Plaintiffs would provide EMS services and Defendant would compensate Plaintiffs for their work, including overtime compensation. Defendant The City of Houston has breached its contract with Plaintiffs by failing to provide overtime compensation pursuant to its contract with Plaintiffs.

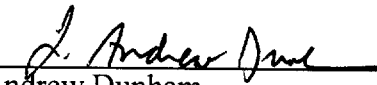
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Billy Lambert, Robert Jefferson Bowen, Frank R. Cucina, Timothy J. Burke, Alberto Canamar, Kenneth Chappell, Jr., Darrell Colbert, Terry L. Colburn, Jr., Moises de la Cruz, Larry Elliott, Gerald D. Fontaine, Stanley D. Ford, Jr., Cain M. Gamez, Raymond Garza, Esiquio Gomez, Edward Havlice, Lisa Havlice, Ruben C. Hernandez, George R. Holder, Jennifer Holder, David Howard, Wayland Kelley, Michael Lochbaum, Leonard T. Manos, Omar Montemayor, Michael D. Mortman, Tod Paget, William M. Prestridge, III, Michael D. Reid, Anthony R. Riggins, Leonard Robinson III, Vincent Rodriguez, Chad Rogers, Ronald Salsman, Gilbert A. Sanchez, Jason A. Shepherd, Jacquelyn Simmons, Warren Smallwood, Victor M. Stubblefield, Anthony Sulak, Tracy J. Taylor, Billy G. Thompson, Dennis

B. Tyer, Jr., Stephen Wakefield, Shane A. Wilburn, and Kenton Williams, respectfully pray that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with interest as allowed by law; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

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PLAINTIFFS HEREBY DEMANDS TRIAL BY JURY